

REMARKS

In the Final Office Action,¹ the Examiner rejected claims 1-16, 18-51, and 53-91 under 35 U.S.C. § 102(a) as being purportedly anticipated by International Publication No. WO 01/018674 to Maloney et al. ("*Maloney*"). As discussed in more detail below, the rejection should be withdrawn and all of the claims should be allowed.

Rejection of Claims 1-16, 18-51, and 53-91 under 35 U.S.C. § 102(a)

Applicant respectfully traverses the rejection of claims 1-16, 18-51, and 53-91 under 35 U.S.C. § 102(a) as being purportedly anticipated by "*Maloney*".

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." M.P.E.P. § 2131, quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the . . . claim." M.P.E.P. § 2131, quoting *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicant submits that *Maloney* does not disclose each and every element of Applicant's claims.

Independent claim 1 recites, among other things, "information about suitability of combining at least some of the plurality of beauty products with other of the plurality of beauty products."

¹ The Final Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Final Office Action.

Applicant has previously argued that *Maloney* fails to teach or suggest at least this feature of claim 1. See Amendment filed July 5, 2007. In response to Applicant's arguments, the Examiner continues to maintain the rejection, citing again page 12, lines 27-35 of *Maloney* as purportedly teaching this feature of claim 1. See Final Office Action, p. 30. The Examiner is incorrect.

Maloney discloses that "[f]eedback information is collected . . . [by asking] questions on how the consumer liked the product, any problems encountered using the product, overall satisfaction for the product, and possible ways to improve the product[,] [f]or example, . . . whether the shampoo had too much or too little lather, whether the cleaning level was satisfactory, and whether the shampoo delivered the desired effectiveness. . . . The feedback data . . . is used . . . to recommend addition[al] customized products . . . and possible alternative products." *Maloney*, p. 12, lines 23-34.

Therefore, *Maloney* teaches collecting information about the suitability of individual products for their individual effectiveness to possibly recommend other products. However, *Maloney* does not teach or suggest "information about suitability of combining . . . some . . . products with other . . . products," as recited in claim 1 (emphasis added). *Maloney*'s disclosure of suitability of individual products for their respective effects cannot constitute a teaching of the claimed "suitability of combining" complementary products with one another.

For example, in an exemplary embodiment consistent with the method recited in claim 1, "maintained information may include . . . product information reflecting complementary nature of two or more products, or the suitability of combining or using

two or more products.” Applicant’s spec., para. [045] (emphases added and inner quotes omitted). “For example, . . . after a user selects ABC’s Ruby Red lipstick, the AI engine may generate a list of recommended products . . . [which] may complement the selected ABC’s Ruby Red lipstick” based on the maintained information about suitability of combining products. Applicant’s spec., para. [047].

Maloney fails to disclose information about the suitability of combining one product with another product. Using the shampoo example given on page 12 of *Maloney*, “if the feedback [regarding Shampoo_X] comprises a . . . negative response from the consumer, . . . possible alternative products [such as Shampoo_Y] will be recommended to the consumer.” *Maloney*, p. 12, lines 30-33. However, *Maloney* fails to teach or suggest information about the suitability of combining, for example, Shampoo_X with Conditioner_Z.

For at least these reasons, *Maloney* fails to teach or suggest “information about suitability of combining . . . some . . . products with other . . . products,” as recited in claim 1. Since *Maloney* does not teach or suggest each and every feature recited in claim 1, *Maloney* fails to anticipate claim 1.

Independent claims 21, 24, 36, 56, 69, and 70, although different in scope from claim 1, recite features having at least some similarity to those discussed above with respect to claim 1. For example, claim 21 recites “maintaining information about suitability of use of at least some of the plurality of beauty products with other of the plurality of beauty products”; claim 24 recites “identifying . . . at least one recommended product complementary to the at least one user-specified product using at least the information about product relationships”; claim 36 recites “a data structure . . . [that]

includes . . . information about suitability of combining at least some of the plurality of beauty products with other of the plurality of beauty products”; claim 56 recites a “location for storing information about suitability of using at least one of the plurality of products with at least one other of the plurality of products”; claim 69 recites “identifying . . . a second recommended product complementary to the first product based on at least the information about relationships”; and claim 70 recites “selecting at least one second beauty product complementary to the first beauty product based on information reflecting a relationship between the first beauty product and the second beauty product.” *Maloney* fails to anticipate claims 21, 24, 36, 56, 69, and 70 for at least reasons similar to those given above with respect to claim 1. In addition, dependent claims 1-16, 18-20, 22, 23, 25-35, 37-51, 53-55, 57-68, and 71-91 are allowable over *Maloney* at least by virtue of their dependence from allowable base claims 1, 21, 24, 36, 56, and 70. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the rejection of claims 1-16, 18-51, and 53-91 under 35 U.S.C. § 102(a) as being anticipated by *Maloney*.

Conclusion

Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: November 30, 2007

By: _____



Anthony M. Gutowski
Reg. No. 38,742